

Application No. 10/612270
Amendment dated 6 January 2005
Reply to Office Action of 7 October 2004

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REMARKS

The Applicant has amended claims 1, 5, 7, 10, 12, 26, 27, 31, 34 and 42 and has cancelled claims 37-41.

Allowable Subject Matter

The Examiner has indicated that claims 5, 7, 10-12, 31, 34 and 35 would be allowable if rewritten in independent form to include all of the features of their respective base claims and any intervening claims. The Applicant has done this by:

- amending claim 5 to include the features of claims 1, 2, 3 and 4;
- amending claim 7 to include the features of claims 1, 2, 3 and 4;
- amending claim 10 to include the features of claims 1, 2 and 3;
- amending claim 12 to include the features of claims 1, 2 and 3;
- amending claim 31 to include the features of claims 27, 28, 29 and 30; and
- amending claim 34 to include the features of claims 27 and 28.

Accordingly, the Applicant submits that claims 5, 7, 10-12, 31, 34 and 35 are in condition for allowance.

Objections Based On Prior Art

The Examiner has raised US Patent No. 5,383,816 (Marcello et al.) in relation to the patentability of claims 1, 27, 42 and 47 and US Patent No. 2,052,315 (Reisner) in relation to the patentability of claim 27. The Applicant submits that originally filed claim 47 and amended claims 1, 27 and 42 patentably distinguish Marcello et al. and Reisner.

As understood by the Applicant, Marcello et al. describes an exhaust box used to ventilate rooms or devices within a building to the external environment. The exhaust box has a main body portion (30) with an interior end (32) and an exterior end (34). The exhaust box is adapted for installation on the outside of the wall structure of a building. A flange portion (52) of the Marcello et al. exhaust box extends radially outwardly from the main body portion (30) adjacent to the outer surface (23) of the wall structure. A removably attachable rain screen grill (60) fits over exterior end (34) of main body portion (30) and flange portion (52) to preclude the entry of rain into the exhaust box.

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Marcello et al. fails to teach or disclose a mounting flange or any other feature that extends between layers of a building surface. While Marcello et al. discloses a flange portion (52) which may be used to mount the exhaust box, Marcello et al. specifically teaches (at column 4, lines 24-26) that “[t]he flange portion 52 is adapted to interface with the outer surface 23 of the wall structure 22 ...”. In addition, the location of the removably attachable rain grill (60) immediately outside of flange portion (52) would prevent flange (52) from extending between layers of a building surface. These aspects of Marcello et al. specifically teach away from a mounting flange that extends between layers of a building surface.

In contrast, claim 1 recites a “mounting flange shaped to permit at least a portion of the mounting flange to extend between an internal building surface layer and one or more external building surface layers” and “a vent cover which is removably mountable to the base member when the base member is mounted within a building surface and the portion of the mounting flange extends between the internal building surface layer and the one or more external building surface layers ...”. Marcello et al. fails to teach or suggest this combination of features. As discussed above, Marcello et al. does not describe a mounting flange or any other features that extend between layers of a building surface. Furthermore, Marcello et al. specifically teaches away from a vent cover that is removably mountable when the mounting flange extends between layers of a building surface, because the Marcello et al. rain grill (60) is located immediately outside of its mounting flange (52).

Claim 27 recites “mounting flange shaped to permit at least a portion of the mounting flange to extend between an internal building surface layer and one or more external building surface layers” and “an outwardly projecting intermediate base flange ... comprising a bottom drainage flange ..., wherein when the base member is mounted within the building surface and the portion of the mounting flange extends between the internal building surface layer and the one or more external building surface layers, the bottom drainage flange projects outwardly from the mounting flange past an outermost one of the one or more building surface layers”. Marcello et al. fails to teach or suggest this combination of features. As discussed above, Marcello et al. does not describe a mounting flange or any other features that extend between layers of a building surface. Furthermore, Marcello et al. does not disclose a bottom drainage flange that projects outwardly from the mounting flange past an outermost one of the one or more external building surface layers.

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Reisner fails to remedy this deficiency. Reisner also fails to teach a mounting flange (or any other features) that extend between layers of a building surface and Reisner also fails to disclose a bottom drainage flange that projects outwardly from the mounting flange past an outermost one of the one or more external building surface layers.

Claim 42 recites "a substantially planar mounting flange ... at least a portion of the mounting flange extending between layers of a building surface for mounting the base member within the building surface and "a vent cover removably coupleable to the outward side of the base member when the portion of the mounting flange extends between the internal building surface layer and the one or more external building surface layers"". As discussed above in relation to claim 1, Marcello et al. does not teach or describe the combination of a mounting flange that extends between building surface layers and a vent cover that is removably attachable to the base member when the mounting flange extends between the building surface layers. Indeed, as discussed above, Marcello et al. teaches away from such features.

Claim 47 recites the combination of "mounting a base member to an internal building surface layer ..." and "after mounting the base member, installing one or more external building surface layers onto the internal building surface layer, such that the one or more external building surface layers overlap a portion of the base member". Marcello et al. fails to disclose or suggest the combination of mounting a base member of a vent to an internal building surface layer and then installing an external building layer which overlaps a portion of the base member. As discussed above, Marcello et al. actually teaches away from such a combination of features.

On the basis of this reasoning, the Applicant submits that claims 1, 27, 42 and 47 patentably distinguish Marcello et al. and Reisner. Claims 2-4, 6, 8-9 and 13-26 depend from claim 1; claims 28-30, 32-33 and 36 depend from claim 27; and claims 43-46 depend from claim 42. Claims 2-4, 6, 8-9, 13-26, 28-30, 32-33, 36 and 43-46 are submitted to be patentable for at least this reason.

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Indefiniteness Objections

The Examiner has raised 35 U.S.C. § 112 in relation to the patentability of claim 26. The Applicant has amended claim 26 to replace "the mounting" with "the mounting flange" and submits that this amendment obviates the Examiner's objection.

Conclusions

The Applicant respectfully requests reconsideration and allowance of this application in light of the foregoing amendments and comments.

Respectfully submitted,
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